

UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

WILLIAM LEONARD PICKARD,

No. C 10-05253 LB

Plaintiff,

v.

**ORDER STRIKING PLAINTIFF'S
SECOND AMENDED COMPLAINT
[ECF No. 26] FROM RECORD**

DEPARTMENT OF JUSTICE,

Defendant.

On March 17, 2011, *pro se* Plaintiff William Pickard filed a first amended complaint. FAC, ECF No. 20. As a result, the court dismissed Defendant Department of Justice's pending motion to dismiss as moot and instructed it to direct any new motion to dismiss at Mr. Pickard's first amended complaint. 3/18/11 Order, ECF No. 21. The Department of Justice filed a motion to dismiss Mr. Pickard's first amended complaint on March 25, 2011. Motion to Dismiss, ECF No. 23. On April 11, 2011, Mr. Pickard filed a second amended complaint. SAC, ECF No. 26.

Under Federal Rule of Civil Procedure 15(a)(1), a plaintiff may amend his complaint *once* as a matter of course within 21 days of serving the original complaint or, "if the pleading is one to which a responsive pleading is required, . . . 21 days after service of a motion under Rule 12(b), (e), or (f)." A plaintiff can only file subsequent amendments with the opposing party's written consent or with the court's permission. Fed. R. Civ. P. 15(a)(2). Mr. Pickard already filed a first amended complaint once as a matter of course. FAC, ECF No. 20. Therefore, in order to file a second amended complaint, Mr. Pickard must get the Department of Justice's written permission or the

1 court's permission. In this case, Mr. Pickard did not get the Department of Justice's permission or
2 the court's permission to file a second amended complaint. Accordingly, the court **HEREBY**
3 **STRIKES** docket entry number 26, Mr. Pickard's second amended complaint, from the record.

4 **IT IS SO ORDERED.**

5 Dated: April 12, 2011



6 LAUREL BEELER
7 United States Magistrate Judge
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